**THE HONOURABLE SRI JUSTICE V. ESWARAIAH**

**WRIT PETITION No.10907 OF 2007**

**DATED: 06-09-2007**

**BETWEEN**

Mohammed Fuad Mirza,
S/o. Late Major Mohd. Asim Mirza,
R/o.8-2-401/1, Road No.5,
Banjara Hills, Hyderabad.

...PETITIONER

**AND**

The Government of Andhra Pradesh,
Rep. by its Principal Secretary,
Revenue Department, Secretariat,
Hyderabad and others.

...RESPONDENTS

**ORDER:**

Petitioner seeks a Writ of Mandamus to declare the action of the respondents in demolishing the compound wall and thereby attempting to dispossess him from the house bearing No.8-2-401/1, Road No.5, Banjara Hills, Hyderabad without issuing any notice and without following due process of law as illegal and arbitrary.

2. Petitioner submits that his father, Mohd. Asim Mirza, was the absolute owner of the property i.e. plot of land admeasuring 2923.11 sq. yards situated in the aforesaid premises and that his father filed declaration under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'). The said declaration has been enquired into and the Special Officer/Competent Authority, Urban Land Ceiling, Hyderabad, passed order in C.C.No.E/9068/76 dated 06.09.1986 stating that an extent of 1000 sq.

yards was gifted to the petitioner by his father and the said 1000 sq. yards is equivalent to 836.12 sq. meters and after excluding the said 1,000 sq. yards the declarant holds an extent of 1651.87 sq. meters and out of the said area the plinth area of the building is 307.73 sq. meters,

the appurtenant land is 500 sq. meters, the additional appurtenant land is 500 sq. meters and thus, the protected land is 1307.73 sq. meters and the vacant surplus land was determined as 344.14 sq. meters. Thus, it is the case of the petitioner that the fact that his father, the original owner of the property, gifted 1,000 sq. yards to him was recognized after enquiry, which was admitted by the Special Officer/Competent Authority, as per his order dated 06.09.1986 and finally determined the surplus vacant land as 344.14 sq. meters alone.

3. The second respondent filed a counter stating that after due enquiry orders under Section 8(4) and final statement under Section 9 of the Act, the orders were issued on 06.09.1986 and a notification under Section 10(1) of the Act was issued on 02.03.1987 and got published in Andhra Pradesh Gazette No.63 dated 14.03.1987; thereafter declaration under Section 10(3) of the Act was issued on 07.07.1988 and got published in A.P. Gazette No.123 dated 12.08.1988 vesting the land with the Government free from all encumbrance with effect from 31.08.1988. As the declarant failed to handover the possession of the surplus land to the Government an order under Section 10(6) of the Act was issued on 21.06.1989 authorizing the enquiry officer to take over possession of the surplus land and accordingly the same has been handed over to the MRO concerned on 23.09.1989. Thus, it is the case of the second respondent that neither the original owner nor the petitioner has a right over the surplus land vested in the Government to an extent of 344.14 sq. meters.

4. Counter has been filed on behalf of the respondents 1, 3 to 5 stating that the surplus land of 344.14 sq. meters in T.S.No.23,

Block-F, Ward No.11, situated at Road No.5, Banjara Hills, Hyderabad was

allotted in favour of Smt. P. V. Sharada Devi, sixth respondent herein, vide orders of the Government in G.O.Ms.No.426 dated 04.04.2007 and the said land was already handed over to the sixth respondent under the cover of Panchanama on 22.05.2007.

5. Learned counsel for the petitioner submits that the petitioner neither has any objection nor disputes with regard to the surplus land already taken over by the Government and handed over to the sixth respondent, but the grievance of the petitioner is that the respondents 1 to 5 are interfering with his peaceful possession and enjoyment in respect of 1,000 sq. yards, which was excluded from the holding of his father by the Competent Authority, vide the aforesaid order dated 06.09.1986.

6. I am of the opinion that the petitioner cannot obstruct or interfere in any manner with regard to the land allotted in favour of the sixth respondent by the Government vide G.O.Ms.No.426 dated 04.04.2007 which was already handed over to her on 22.05.2007 under the cover of panchanama and at the same time the respondents
1 to 5 shall not interfere with the peaceful possession and enjoyment of the petitioner in respect of his 1,000 sq. yards.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

September 6, 2007
DSK